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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)
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Carriage of the Transmissions)
of Digital Television Broadcast Services)
)
Amendments to Part 76)
of the Commission's Rules)

CS Docket No. 98-120

To: The Commission

COMMENTS OF THE PENNSYLVANIA CABLE NETWORK

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List ABCDE

TABLE OF CONTENTS

	<u>Page</u>
1. INTRODUCTION.....	1
2. FUNDING PCN.....	3
3. WHY PCN MATTERS.....	3
4. MARKETING PCN.....	5
5. THE PROMISE OF DUAL MUST-CARRY AND THE REALITY OF PCN.....	6
6. THE EFFECT OF DUAL MUST-CARRY ON PCN.....	7
7. CONCLUSION.....	8

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COMMENTS OF THE PENNSYLVANIA CABLE NETWORK

1. Introduction

Pennsylvania Educational Communications Systems, d/b/a Pennsylvania Cable Network (PCN), a not-for-profit public service of Pennsylvania cable television companies, submits these comments to inform the Commission of the serious, most likely fatal damage that would be inflicted on this network as a result of the imposition of dual must-carry.

PCN is a public service cable television network dedicated to the interests and needs of Pennsylvania and its citizens. As such, the network provides twenty hours per day of satellite-delivered, gavel-to-gavel coverage of public events significant to the people of this Commonwealth. Serving as a C-SPAN for Pennsylvania, PCN provides live, gavel-to-gavel coverage of the Pennsylvania Senate and House of Representatives floor debates, as well as a daily schedule of committee hearings, press conferences, meetings of the Pennsylvania Public Utility Commission, the Independent Regulatory

Review Commission, and other activities of state government. Reaching beyond the Capitol, PCN provides gavel-to-gavel coverage of annual conferences of the Pennsylvania League of Cities, the Pennsylvania Association of Township Supervisors, the Pennsylvania Boroughs Association, the Pennsylvania State AFL-CIO, the Pennsylvania State Education Association, and the Pennsylvania State Democratic and Republican Committees.

The network's Viewer Call-In, campaign and election programming, and coverage of events which reflect the state's history, business and culture round out an extensive schedule of public affairs television programming.

Historically dedicated to education, PCN offers the weekly Two-hour *Homework Help* program, which allows elementary and secondary school students to ask science and mathematics homework questions on the air to state-certified teachers, giving the students an opportunity to better understand their school lessons.

One hour each day is devoted to basic adult literacy, featuring the television program *GED on TV*.

The cost of all of this programming is borne by PCN, and it is aired without commercial interruption.

Founded by cable television operators in 1979 as the nation's first educational cable network, PCN has grown to be the preeminent state public affairs and educational cable television network in the nation.

2. Funding PCN

More than 90 percent of PCN's revenues come from subscriber fees charged to each of the network's participating cable systems. As of this writing, PCN is carried by 135 cable television systems serving 2.8 million of the 3.5 million cable homes in Pennsylvania.

The network receives no revenue from the Commonwealth of Pennsylvania or any other government entity. As such, PCN is a public service provided by Pennsylvania cable television operators to their subscribers.

At present, the network employs a full-time staff of 23. Of these, sixteen are directly involved in network operations, including field production, studio production, tape playback, on-air duties, information-gathering, and editorial decision-making. Those sixteen people are responsible for a daily, twenty-hour schedule of public affairs programming, nearly all of it produced in-house.

Considering the network's total revenues--tiny in comparison with any other television station or network--and the large number of hours of original programming generated daily--larger than the output of nearly any other television station of network regardless of budget--PCN is a monument to television efficiency.

3. Why PCN Matters

The issues of the day about which citizens feel most strongly--education, crime, employment, health care, roads and highways, insurance, and other such matters--are principally the purview of state governments. Decisions made in statehouses across the nation generally affect citizens more directly and immediately than decisions made at the

federal level. And yet the broadcast news media in recent years has seen fit to reduce, and even eliminate its coverage of this vital aspect of democracy.

Pennsylvania is the home of 46 broadcast television stations, commercial and noncommercial. Of these broadcasters, **not a single one** has a bureau assigned to cover the activities of the state government. The cameras of broadcast stations virtually never appear in Pennsylvania's Capitol. A rare exception occurred recently when one State House Committee looked into activities at a "Sex Fair" held at Penn State University. On the day of that hearing ten broadcasters sent news cameras to cover the event. But when the issue is education, health, banking, nursing homes or utilities, the broadcasters are nowhere to be found.

For those Pennsylvanians who receive their news through broadcast television, state government simply does not exist. For television viewers in Pennsylvania, PCN is the **only** source of news about the activities of their state government.

The broadcast industry which seeks special treatment and the protection of dual must-carry is the very same industry which has totally abandoned its responsibility to citizens to inform them about their state government, leaving cable television as the only medium willing to provide this service.

The Federal Communications Commission said on page 5 of its Notice of Proposed Rulemaking:

"Congress believed that laws were required to ensure...as it relates to noncommercial television stations, the continued distribution of unique, noncommercial, educational programming services. Congress reasoned that without mandatory carriage provisions in place, the economic viability of local broadcast television and its ability to originate quality local programming would be jeopardized."

As described earlier, PCN currently provides **one hundred forty hours per week** of local, unique, noncommercial, educational programming, more by far than any commercial or public broadcasting station in the state, perhaps in the nation. The imposition of dual must-carry and the inevitable damage done to PCN as a result, would seem to fly in the face of the will of the Congress on this point.

4. Marketing PCN

While PCN has grown from 600,000 subscribers to 2.8 million subscribers in the past seven years, the growth has been slow and the marketing difficulties many.

First and foremost, PCN is not a mass-audience network. Positioning itself more like the public library than the local mall, it is the goal of the network to provide a community service, and not to appeal to the lowest common denominator in order to maximize Nielsen ratings. While the issues covered by PCN may be of tremendous importance to a small number of people at any given time, over the course of time our programming offers vital information to a large number of people.

As worthy as our network's programming might be to Commonwealth residents, when cable operators are forced to consider carriage of PCN against ESPN2, Home and Garden Television, Speedvision, the Golf Channel, Turner Classic Movies, and HBO 2, 3, and 4, PCN is a difficult sell. In fact, when cable operators survey their subscribers, asking them which networks they would like to see added to their cable systems, PCN and other niche programmers like it traditionally finish near the bottom. Sports, movies, and entertainment are always an easier draw than gavel-to-gavel coverage of state legislative sessions.

It is, therefore, to the tremendous credit of the many cable operators who have been responsible for PCN's growth in recent years that they saw the value of this public service and supported it with their own money.

Unfortunately, in spite of the network's growth over the past five years, PCN is still not available in 700,000 of the state's cable homes. The reason given in nearly every case is "channel capacity". In fact, the Commission, on page 24 of the above-referenced Notice of Proposed Rulemaking, cited Nielsen's Cable On-Line Data Exchange as saying that, "some two-thirds of cable systems are currently channel-locked."

With limited channel availability, when faced with a choice of networks to add to their systems, many cable operators are forced to look principally at well-financed, heavily advertised, mass-audience networks at the expense of public service networks.

5. The Promise of Dual Must-Carry and the Reality of PCN

The conversion to digital transmission offers broadcasters the opportunity to make many blue-sky promises about program multiplexing. It is easy for PBS, for example to promise programming geared toward education and public affairs. Looking at the track record, however, one sees that the opportunity to offer this type of programming has been available to PBS for decades. Since the 1960's PBS has had the opportunity to provide coverage of local and state public affairs programming and coverage of the activities of state legislatures. They have had the opportunity and they have not acted on it. They have had the funding and have chosen to spend it elsewhere.

So while PBS has been preparing comments to the FCC promising public affairs programming, the Pennsylvania Cable Network has been delivering. Since 1993 PCN has carried every session of the Pennsylvania House and Senate, gavel-to-gavel. Since 1993 PCN has offered hundreds of committee hearings each year, gavel-to-gavel. Since 1993 PCN has offered an around-the-clock daily schedule of “unique, noncommercial, educational programming.”

It is very easy to make promises. PCN has been delivering on its promises. It is baffling that the Commission would consider rules that would cause serious damage to an existing privately-funded, non-profit public service in order to give broadcasters the opportunity to maybe, someday, offer the same type of programming PCN has been offering for eight years.

6. The Effect of Dual Must-Carry on PCN

In order to gauge the effect of the imposition of dual must-carry, one should look at the most recent time must-carry was imposed on the cable industry, following the 1992 Cable Act. As a direct result of must-carry, nearly 5 million cable households suffered the loss of part or all of C-SPAN programming. PCN, being a programmer very much like C-SPAN, will undoubtedly receive similar treatment.

Judging from that experience alone, it is clear that the imposition of dual must-carry would cause severe damage to the Pennsylvania Cable Network, a non-profit cable television network dedicated to public service. Faced with the loss of such a large number of subscribers, the source of virtually all of PCN's revenue, the continued existence of the network would be unlikely.

While many cable systems are planning or in the process of rebuilding with the purpose of increasing channel capacity, these projects invariably take years to complete. It is unreasonable to assume that PCN could survive the period between the imposition of dual must-carry and that mythical time in the future when channel capacity is abundant.

7. Conclusion

It is difficult to believe that the greatest threat to the Pennsylvania Cable Network and its public service mission could come directly from the United States Government.

If the Federal Communication Commission chooses to impose dual must-carry, it will be guaranteeing success for the broadcaster's new business ventures, regardless of the damage done to other companies. That the FCC would designate certain businesses for success based solely on their means of transmission is inconceivable. That the Commission, through deliberate action, would put PCN and other public service television networks at grave risk is beyond belief.

Dual must-carry is a bad idea that will have a devastating effect on all but the wealthy and well-funded, whose commitment to local programming is scant at best. Dual must-carry will serve to the benefit and enrichment of broadcasters, including public broadcasters, who have largely abandoned their responsibility for an informed electorate, especially at the state level.

Dual must-carry must not be imposed in any form.

If broadcasters, with all their wealth, wish to build a business of digital television, let them do as little, non-profit PCN has done--compete in the marketplace without any federally-provided guarantee of success.

PCN asks no favors. We do not request special treatment. We are proud of the product we produce and the service we provide to the citizens of Pennsylvania. We believe we can compete in the marketplace by offering unique, original, noncommercial, and local programming which is unavailable on any other channel. We ask only that the United States Government not make it impossible for us to continue by granting preferential treatment to broadcasters.

Respectfully submitted,

**PENNSYLVANIA EDUCATIONAL
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